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BOOK 124 PAGE 172

FILED FOR RECORD  
SKAMANIA COUNTY, WASH.BY *Kielpinski Lorne*

JUL 18 2 03 PM '91

*P. Henry*  
GAR. H. OLSON

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**REAL ESTATE CONTRACT**

THIS CONTRACT, made and entered into this 20th day of June, 1991, between **THE ESTATE OF HARLEY HARRIS, Deceased**, as to an undivided one-half interest, and **THE ESTATE OF ORVILLE and SHIRLEY P. HARRIS, Deceased**, as to an undivided one-half interest, hereinafter called the "Sellers", and **HENRY H. PATTON and ANNE V. PATTON**, husband and wife, hereinafter called the "Purchasers".

**WITNESSETH:** That the Sellers agree to sell to the Purchasers, and the Purchasers agree to purchase from the Sellers the following described real estate, with the appurtenances, in Skamania County, State of Washington:

Northeast quarter of Southwest quarter Section 24 Township 3 North, Range 9 East of the Willamette Meridian, excepting that part North and East of a line 100 feet South and West of the "present State Highway" boundary line (meaning by the term "present State Highway" the location of the present county road, formerly, and on the 2nd day of November, 1932, designated as State Highway No. 8), consisting of 32 acres, more or less.

SUBJECT TO any and all restrictions, reservations, easements and encumbrances appearing of record.

The terms and conditions of this contract are as follows:

**Price and Payment Terms**

1. The purchase price is One Hundred Seventy-five Thousand and No/100 Dollars (\$175,000.00), of which \$5,000.00 has been paid, the receipt whereof is hereby acknowledged, and the balance of said purchase price shall be paid as follows:

a. \$100,000.00 on October 15, 1991; and

b. \$70,000.00 on January 15, 1992; provided, however, that Purchasers shall have the option to extend until 5:00 P.M. on March 16, 1992 the time to make such payment. In the event Purchasers elect to exercise this option, Purchasers shall pay interest on such portion of said sum as may be unpaid on January 15, 1992 at the rate of ten (10%) percent per annum.

2. All payments to be made hereunder shall be made to The Estate of Harley Harris, Deceased, and The Estate of Orville and Shirley P. Harris, Deceased, c/o Kielpinski & Lorne, P.C., Attorneys at Law, PO Box 510, Stevenson, Washington 98648, or at such other place as the Sellers may direct in writing.

3. As referred to in this contract, "date of closing" shall be June 20th, 1991.

4. Purchasers may at their option pay the entire balance of the purchase price remaining due, or any part of such balance, at any time before maturity, without penalty and without notice to Sellers.

Closing Costs

5. Sellers' Closing Costs. Sellers shall pay the following closing costs:

- a. One-half (1/2) of the Real Estate Excise Tax
- b. One-half (1/2) of the premium for a policy of title insurance.
- c. One-half (1/2) of the closing fee to Kielpinski & Lorne, P.C.
- d. One-half (1/2) of the recording fee for the Real Estate Contract.

6. Purchasers' Closing Costs. Purchasers shall pay the following closing costs:

- a. One-half (1/2) of the Real Estate Excise Tax
- b. One-half (1/2) of the premium for a policy of title insurance.
- c. One-half (1/2) of the closing fee to Kielpinski & Lorne, P.C.
- d. One-half (1/2) of the recording fee for the Real Estate Contract.

Pro-Rated Items

7. The following shall be pro-rated as of the date of closing:

- a. 1991 Real Property Taxes
- b. Water and other utilities constituting liens, if applicable.

8. The Purchasers assume and agree to pay before delinquency all taxes and assessments, including but not limited to any governmental improvement assessments or charges that may as between grantor and grantee hereafter become a lien on said real estate. Upon request by Sellers, Purchasers will show proof of said payments.

Inspection

9. The Purchasers agree that full inspection of said real estate has been made and that neither the Sellers nor their assigns shall be held to any covenant respecting the condition of any improvements thereon nor shall the Purchasers or Sellers or the assigns of either be held to any covenant or agreement for alterations, improvements or repairs unless the covenant or agreement relied on is contained herein or is in writing and attached to and made a part of this contract.

a. Purchasers are acquiring the property "as is" and Sellers make no representations or warranties except as to title as set forth herein. Without limiting the generality of the foregoing, Purchasers acknowledge that they have made their own independent investigation respecting the property and will be relying entirely thereon and on the advice of any consultant they may retain. Purchasers may not rely upon any representation of any party whether or not such party purports to act on behalf of Sellers, unless the representation is expressly set forth therein or in a subsequent document executed by Sellers. All representations, warranties, understandings and agreements between Sellers and Purchasers are merged herein and shall not survive closing.

**Taking**

10. The Purchasers assume all risk hereafter placed on said real estate or of the taking of said real estate or any part thereof for public use and agree that any such taking shall not constitute a failure of consideration. In case any part of said real estate is taken for public use, the portion of the condemnation award remaining after payment of reasonable expenses of procuring the same shall be paid to the Sellers and applied as payment on the purchase price herein unless the Sellers agree in writing to allow the Purchasers to apply all or a portion of such condemnation award to the rebuilding or restoration of any improvements damaged by such taking.

**Timber**

11. Purchasers shall not be entitled to cut or remove any timber from the property unless the following conditions are first satisfied:

- a. Purchasers shall give not less than fifteen (15) days prior written notice to Sellers that cutting is contemplated, which notice shall include an accurate legal description of the area which is to be cut, the amount of board feet, and market value of the timber proposed to be cut or removed;
- b. Purchasers shall not be entitled to cut any timber, if, in Sellers' sole opinion, such cutting would unreasonably diminish Sellers' security under this contract; and
- c. Purchasers shall not be entitled to cut any timber without the written consent of Sellers. Any denial by Sellers to cut timber shall also be in writing and state specifically the reasons therefore.
- d. If any timber is cut or removed, all proceeds of sale shall be paid directly to Sellers and applied towards the purchase price hereunder. The application of such proceeds shall not, however, excuse Purchasers from the payment of any installments or other payments required hereunder.

**Title Insurance**

12. The Sellers or agree to deliver within thirty (30) days of the date upon which the payment required under Paragraph 1.a. of this Contract is received, a purchasers' policy of title insurance in standard form, or a commitment therefor, issued by Skamania County Title Company, insuring the Purchasers to the full amount of said purchase price against loss or damage by reason of defect in Sellers' title to said real estate as of the date of closing and containing no exceptions other than the following:

- a. Printed general exceptions appearing in said policy form;
- b. Potential Taxes, Penalties and Interest incurred by reason of a change in the use or withdrawal from classified use of the herein described property. Notice of approval of such classified use, was given by the Skamania County Assessor, and recorded July 8, 1975, in Book F, Page 54, Auditor's File No. 79926, Skamania County Lien Records.
- c. Pending Probate of Harley Harris Case No. 90-4-00013-2. Beverly A. Fincher was appointed personal representative and has the power to sell.



- d. Easement including the terms and provisions thereof recorded June 18, 1971 in Book 63, Page 4, under Auditor's File No. 73559, Skamania County Deed Records.
- e. Pending Probate of Orville and Shirley P. Harris, filed March 21, 1991, Case No. 91-4-00007-6. Stephen M. Harris was appointed as Personal Representative and has the power to sell. Jan Kielpinski is the Attorney for the Estate.

**Payment of Obligations Resulting from Removal from Classified Use**

13. Purchasers agree to pay any and all potential taxes, penalties and interest incurred by reason of a change in the use or withdrawal from classified use of said real estate and to hold Sellers harmless therefrom.

**Deed**

14. The Sellers agree, upon receiving full payment of the purchase price and interest in the manner above specified, to execute and deliver to Purchasers a statutory warranty fulfillment deed to said real estate, excepting any part thereof hereafter taken for public use, free of encumbrances except any that may attach after date of closing through any person other than the Sellers, and subject to the exceptions noted in Paragraph 13 hereof.

**Possession**

15. Unless a different date is provided for herein, the Purchasers shall be entitled to possession of said real estate on the date of closing and to retain possession so long as Purchasers are not in default hereunder. The Purchasers covenant to keep any improvements on said real estate in good repair, not to permit waste and not to use, or permit the use of, the real estate for any illegal purpose. The Purchasers covenant to pay all service, installation or construction charges for water, sewer, electricity, garbage or other utility services furnished to said real estate after the date Purchasers are entitled to possession.

**Use of Premises**

16. Purchasers covenant and agree to make or permit no unlawful, offensive or improper use of the premises or any part thereof.

**Assignment**

17. The rights hereby granted are personal to the Purchasers and Sellers' reliance upon Purchasers' ability and integrity is a part of the consideration for this contract. Neither this contract nor any interest therein, nor the possession of the property, may be assigned or transferred by Purchasers, nor shall Purchasers make or enter into any contract for the sale of the property or any interest therein, without the prior written consent of Sellers.

**Default**

18. In case the Purchasers fail to make any payment herein provided, the Sellers may make such payment, and any amounts so paid by Sellers, together with interest at the rate of 12% per annum thereon from date of payment until repaid, shall be repayable by Purchasers on Sellers' demand, all without prejudice to any other right the Sellers might have by reason of such default.

19. Time and the covenants of Purchasers are of the essence of this contract, and it is agreed that in case the Purchasers shall fail to comply with or perform any condition or agreement hereof or to make any payment required hereunder promptly at the time and in the manner herein required, the Sellers may at their

option exercise any of the following alternative remedies upon giving Purchasers thirty (30) days written notice specifying the default and the remedy to be exercised should Purchasers fail to secure all defaults at the expiration of the 30-day period:

- a. Suit for Delinquencies. Sellers may institute suit for any installments or other sums then due and payable under this agreement together with any sums advanced by Sellers for and the amount of any delinquencies for items such as water assessments, taxes, insurance, payments and underlying obligations and lienable items, together with interest thereon at the rate of 12% per annum from the date each such payment was advanced or due, as the case may be.
- b. Forfeiture and Repossession. The Sellers may cancel and render void all rights, title and interests of the Purchasers and their successors in this contract and in the property (including all of Purchasers' then existing rights, interests and estates therein and improvements thereon) by giving a Notice of Intent to Forfeit pursuant to RCW 61.30.040-070, and said cancellation and forfeiture shall become effective if the default therein specified has not been fully cured within ninety (90) days thereafter and the Sellers record a Declaration of Forfeiture pursuant to RCW 61.30.040-070. Upon the forfeiture of this contract, the Sellers may retain all payments made hereunder by the Purchasers and may take possession of the property ten (10) days following the date this contract is forfeited and summarily eject the Purchasers and any person or persons having possession of the said property by, through or under the Purchasers who were properly given the Notice of Intent to Forfeit and the Declaration of Forfeiture. In the event the Purchasers or any person or persons claiming by, through or under the Purchasers who were properly given the Notice of Intent to Forfeit and the Declaration of Forfeiture remain in possession of the property more than ten (10) days after such forfeiture, the Purchasers, or such person or persons, shall be deemed tenants at will of the Sellers and the Sellers shall be entitled to institute an action for summary possession of the property, and may recover from the Purchasers or such person or persons in any such proceeding the fair rental value of the property for the use thereof from and after the date of forfeiture, plus costs, including the Sellers' reasonable attorneys' fees.
- c. Specific Performance. Sellers may institute suit to specifically enforce any of the Purchasers' covenants hereunder.
- d. Property Rental. In the event this contract is forfeited as herein provided, or in any other manner permitted by law, or by mutual agreement of the Purchasers and Sellers, and the Purchasers shall thereafter remain in possession of the property beyond any period otherwise permitted by law, the Purchasers agree that they will occupy the property as a tenant at will, and the Purchasers shall be obligated to pay, and hereby promise to pay, during the period of such tenancy at will, a fair market rental in the amount then agreed to by the parties or, in the absence of such agreement or until such agreement is reached, an amount equal to two (2) times the installment amount as and when provided for in the specific terms hereof, and the Sellers shall have, in addition to all other remedies for

the collection of rentals and the recovery of possession that are available to landlords under the laws of the State of Washington, the right to institute an action for summary possession of the property as provided by law.

20. a. In the event Sellers should default in any of their obligations under this contract and such default continues for fifteen (15) days after the Purchasers give the Sellers written notice specifying the nature thereof and the acts required to cure the same, the Purchasers shall have the right to specifically enforce this contract, institute suit for their damages caused by such default, or pursue any other remedy which may be available to Purchasers at law or in equity.

b. The waiver of Sellers to elect to pursue any of the above remedies at any time upon a breach of any of the terms of this contract by the Purchasers shall be deemed only an indulgence by the Sellers with regard to that particular breach and shall not be construed, in any manner whatsoever, to be a waiver of any right of Sellers to pursue any of the above remedies for the same or a different breach at a subsequent time; election of the Sellers to utilize any particular remedy to enforce a breach of this contract shall not preclude Sellers from electing to use an alternate remedy to enforce a subsequent breach. The remedies stated herein are cumulative and not mutually exclusive. Any delay or failure of Sellers to take action upon default shall not be construed as a waiver of said default. If Sellers are required to institute legal action to enforce any of the remedies indicated, Purchasers agree to pay Sellers' costs and reasonable attorneys' fees incurred in such proceeding and any appeal thereof.

#### Notice

21. Any notice, declaration, demand, consent or communication to be given by any party to this contract to any other party shall be in writing and transmitted to the other party by either personally delivering the notice or by certified or registered mail, return receipt requested, addressed as follows:

To Purchasers:

Henry H. Patton  
Anne V. Patton  
Cold Spring Farm  
Chenoweth Road  
Underwood, WA 98651

To Sellers:

The Estate of Harley Harris,  
Deceased, and The Estate of  
Orville and Shirley P. Harris,  
Deceased.  
c/o Kielpinski & Lorne, P.C.  
PO Box 510  
Stevenson, WA 98648

Either party may change its address by giving written notice to the other party in the manner provided above, provided that in no event shall either party be required to send any notice to more than two (2) addresses. The mailing and registering or certifying of any such notice as herein provided shall be sufficient service thereof. Service shall be complete when such notice is registered or certified and placed in the United States mail as shown by the cancellation stamp or postage meter stamp, as the case may be.

#### Costs and Attorneys' Fees

22. If either party shall be in default under this contract, the nondefaulting party shall have the right, at the defaulting party's expense, to retain an attorney to make any demand, enforce any remedy, or otherwise protect or enforce its rights under this contract. The defaulting party hereby promises to pay all costs and expenses so incurred by the nondefaulting party, including, without limitation, court costs, notice expenses, title search expenses, and reasonable attorneys' fees (with or without



arbitration or litigation). In the event either party hereto institutes any action to enforce the provisions of this contract, the prevailing party in such action shall be entitled to reimbursement by the losing party for its court costs and reasonable attorneys' fees, including such costs and fees as are incurred on appeal. All reimbursements required by this paragraph shall be due and payable on demand, may be offset against any sum owed to the party so liable in order of maturity, and shall bear interest at the default rate from the date of demand to and including the date of collection or the due date of any sum against which the same is offset.

## Succession

23. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns and legal representatives.

**Governing Law**

24. This Agreement shall be construed and enforced in accordance with the laws of the State of Washington.

## Use of Pronouns

25. Unless the context requires otherwise, references to the singular shall include the plural and references to the plural shall include the singular. Unless some other meaning or intent is apparent from the context, masculine, feminine and neuter pronouns are used interchangeably herein.

**Entire Agreement**

26. This Agreement supersedes any prior agreement and contains the entire agreement of the parties as to the matter covered. No other agreement, statement or promise made by any party or to any employee or agent of any party shall be binding unless made in writing and signed by both parties to this Agreement; Provided, however, that this agreement neither validates nor invalidates nor has any effect whatsoever on that certain Earnest Money Agreement to purchase Mark Harris interest in Skamania County Tax Parcel #500, a copy of which is attached hereto as Exhibit "A".

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the date first written above.

**SELLERS:**

*Beverly Fincher*  
BEVERLY FINCHER, Administratrix  
for the Estate of Harley Harris,  
Deceased.

Stephen M. Harris  
STEPHEN M. HARRIS, Administrator  
for the Estate of Orville and  
Shirley P. Harris, Deceased.

**PURCHASERS:**

*Henry H. Patton*  
HENRY H. PATTON

Anne Patton  
ANNE V. PATTON

STATE OF WASHINGTON )  
 ) ss  
County of Skamania )

On this day personally appeared before me Beverly Fincher, in her capacity as Administratrix of the Estate of Harley Harris, Deceased, to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that she signed the same as her free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 20th day of June, 1991.



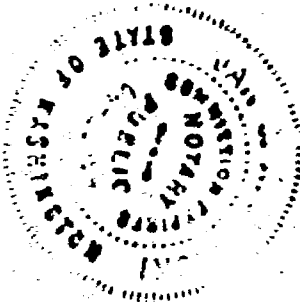
Jan C. Kiefern  
Notary Public in and for the  
State of Washington, residing  
at Stevenson

Commission expires 4-28-94

STATE OF WASHINGTON )  
 ) ss  
County of Skamania )

On this day personally appeared before me Stephen M. Harris, in his capacity as Administrator of the Estate of Orville and Shirley P. Harris, Deceased, to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that he signed the same as his free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 20th day of June, 1991.



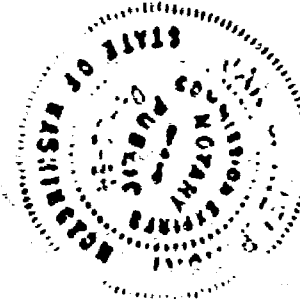
Jan C. Kiefern  
Notary Public in and for the  
State of Washington, residing  
at Stevenson

Commission expires 4-28-94

STATE OF WASHINGTON )  
 ) ss  
County of Skamania )

On this day personally appeared before me Henry H. Patton and Anne V. Patton, husband and wife, to me known to be the individuals described in and who executed the within and foregoing instrument, and acknowledged that they signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 20th day of June, 1991.



Jan C. Kiefern  
Notary Public in and for the  
State of Washington, residing  
at Stevenson

Commission expires 4-28-94

14415

REAL ESTATE EXCISE TAX

JUL 18 1991

PAID 2240.00  
Of Deputy  
SKAMANIA COUNTY TREASURER



EARNEST MONEY AGREEMENT TO PURCHASE MARK HARRIS INTEREST  
IN SKAMANIA COUNTY TAX PARCEL #500

This witnessed letter and earnest money agreement will serve as a mutually binding instrument of sale between the buyers Anne and Hank Patton, of Underwood, Washington, and Mark Harris of Kalispell, Montana.

For the consideration of \$3000.00 Mark Harris and his heirs or assigns agree to sell and the buyers agree to buy all of the seller's interest in tax parcel 500 in section 24 of Skamania County Washington, formerly belonging to Harley Harris (et al) deceased.

\$500.00 dollars of this consideration will be delivered on the execution of this agreement. The balance in full will be paid on the delivery by the seller of documentation acceptable to buyers as to the seller's real interest in the Harris property described here. This documentation will be made available no later than one year from the date of this agreement. If Mark Harris is unable to demonstrate a legal and real interest in the Harley Harris property, the \$500 transferred here will apply to Patton/Mark Harris agreement to buy Mark Harris's interest in tax parcel #1001, adjacent and south of parcel #500.

Other than the above paragraph, this agreement does not affect seller's previous sale to the Pattons of his interest in tax parcel #1001

Mark Harris  
signed

Mark Harris  
2428 Montana 35  
Kalispell Montana 59901

Jessie Buchanan  
Witnessed

Jessie Buchanan  
Underwood WA 98651

Henry H. Patton  
Henry H. Patton

Cold Spring Farm  
Chenoweth Road  
Underwood Washington 98651

Anne V. Patton  
Anne V. Patton

B-7. MMH

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